IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 6958 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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NEW INDIA ASSURANCE CO LTD - Appellant(s)
Versus
SHRIMATIBEN RAMJIBHAI GUPTA & 4 - Defendant(s)

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Appearance :
MR SHASHIKANT S GADE for Appellant(s) : 1,
MR JB DASTOOR for Defendant(s) : 1,
MR AMIT C NANAVATI for Defendant(s) : 2, 5,
MR HIMANSU M PADHYA for Defendant(s) : 3,
NOTICE SERVED for Defendant(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 01/09/2006

ORAL JUDGMENT

1. This appeal is directed against the judgement and award dated 5th May 1999 passed by the Motor Accident Claims Tribunal (Aux.), Banaskantha at Palanpur, in M.A.C.P. No.641 of 1991 whereby the said claim petition was allowed and the claimant was awarded a sum of Rs.68,280/- along with interest at the rate of 15% per annum.

2. The claim petition was filed in pursuance of an

accident which had occurred on 19.7.1991. The original claimant and her daughter was travelling in a rickshaw bearing Registration No. G.R.O. 1022. The rickshaw was driven by original opponent No. 1. At that time one Jeep bearing Registration No. GJ.8.263 driven by original opponent No. 3 came towards rickshaw in full speed and the two vehicles collided. As a result of this the original claimant has sustained bodily injury. Therefore she filed a claim petition claiming compensation to the tune of Rs. 70,000/-.

3. Learned counsel for the appellant has submitted that the Tribunal ought not to have passed any award against the appellant – Insurance Company in view of the fact that the insured Car No. GJ-8-263 at the time of accident was being driven by a person who had no driving licence. He further submitted that the Tribunal ought to have followed the law laid down by the Honourable Supreme Court, wherein it is held that in absence of driving licence, insurance company is not liable either under the law of Torts or even under the provisions o the Motor Vehicle Act.

4. Heard. I have gone through the judgement and award of the Tribunal. While passing the judgement Tribunal has rightly considered the award in the different heads which is just and proper and no change will be required. Mr. J.M. Dastoor, learned advocate for the respondent has produced a Zerox copy of the licence of Karshanbhai Lakshamanbhai Patel which is taken on record and it is valid. Therefore no interference is required in the matter.

6. In view of the above finding there is no substance in the contention raised by the appellant and I am of the view that the Tribunal has not committed any error in passing the impugned order. I am in complete agreement with the reasonings adopted and the findings arrived at by the Tribunal. No case is made out to cause interference. Hence the appeal is dismissed. No order as to costs.

(K.S.JHAVERI, J.)

Suresh*